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DATE: 27-Jun-02

FACSIMILE TRANSMISSION

TRANSMIT TO: Commissioner for Patents
Washington, DC 20231

ATTENTION: Examiner A. M. S. Wehbe

Group 1632

FACSIMILE NO.: 703-746-7024

FROM: LEON R. YANKWICH, Reg. No. 30,237

RE: U.S. Ser. No. 09/673,292 (Atty. Docket No. MGH-002.1P US)

NUMBER OF PAGES TO FOLLOW: 6

MESSAGE:

In accordance with our recent telephone conversation, the following pages are statements by myself and the person who processes A.I.L. mail for my firm, affirming that the office action you brought to our attention has not been received at Yankwich & Associates.

Leon R. Yankwich

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile on 27-JUN-2002, under a facsimile cover sheet to facsimile number (703) 746-7024 addressed to Commissioner for Patents, Washington, D.C. 20231 and to the attention of Examiner A. M. Wehbe, Group 1632.

Leon R. Yankwich

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|-----------------------|---|
| In re Application of: | D. I. Faustman |
| Serial No.: | 09/673,292 |
| Filing Date: | Oct. 13, 2000 |
| For: | Transport Associated Protein Splice Variants and Model for Immune Diversity |

Art Unit: 1632

Examiner: A. M. Wehbe

Attorney Docket No.: MGH-002.1P US

Commissioner for Patents
Washington, D.C. 20231Affidavit of Kimberly B. Chelo

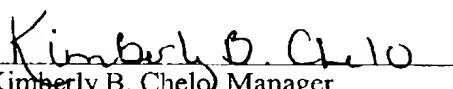
I, Kimberly B. Chelo, being duly sworn, hereby declare and say:

1. I am the Manager of the law firm of Yankwich & Associates and have held that position since the law firm was started in August 1997;
2. Among my duties at Yankwich & Associates is responsibility for initially receiving and opening all incoming mail for the firm and all docketing of official correspondence received from the USPTO;
3. The procedure that has been followed since the inception of Yankwich & Associates is that all mail addressed to the firm is opened by me, I date-stamp all mail and separate official correspondence for docketing, I review the official correspondence to determine the nature of the paper and calculate response deadlines, I enter the fact of receipt of any paper in the history field of a master database containing information on all patent applications handled by Yankwich & Associates, I enter response deadlines and related reminder deadlines into a docketing database, I then forward a docketed correspondence directly to Leon R. Yankwich, Esq., the firm's sole

U.S. Ser. No. 09/673,292

proprietor, for review and distribution, if necessary, to an associate attorney for further action;

4. I have been informed and believe that an official action containing a restriction requirement was mailed from the USPTO in the above-identified application on December 5, 2001;
5. I have reviewed the master database, archived reports from the docketing database for the period around December 5, 2001, and the file maintained by Yankwich & Associates relating to the above-identified application, and I have found no record of the official action of December 5, 2001 having been received by this office, as reflected by the fact of no entries having been made in either the master database or the docketing database concerning this office action and by the fact that such office action is not in the application file;
6. I have furthermore conducted a search of all the other patent application files in our office that received official correspondence on or about December 5, 2001 and have not found the office action in question misfiled in such other files;
7. In view of the foregoing, it is my conclusion and belief that the office action of December 5, 2001 was never received by Yankwich & Associates;
8. I further declare that all of the foregoing statements made on personal knowledge are true and all statements made on information and belief are believed to be true, and furthermore I acknowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, U.S. Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.


Kimberly B. Chelo, Manager
Yankwich & Associates
30 Bishop Allen Drive
Cambridge, MA 02139

U.S. Ser. No. 09/673,292

Commonwealth of Massachusetts

Middlesex County

SS:

On this 27th day of June, 2002, KIMBERLY B. CHELO, personally appeared before me, a Notary Public for the Commonwealth of Massachusetts, and, being duly sworn, affirmed that the foregoing affidavit was being made for the uses and purposes therein set forth.

(SEAL)

Stephanie L. Leicht
Notary Public

As subscribed and sworn to
before me on 27th June 2002
Stephanie L. Leicht /Date
Notary Public
My Commission Expires
4/28/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|-----------------------|---|
| In re Application of: | D. L. Faustman |
| Serial No.: | 09/673,292 |
| Filing Date: | Oct. 13, 2000 |
| For: | Transport Associated Protein Splice Variants and Model for Immune Diversity |

Art Unit: 1632

Examiner: A. M. Wehbe

Attorney Docket No.: MGH-002.1P US

Commissioner for Patents
Washington, D.C. 20231Affidavit of Leon R. Yankwich

I, Leon R. Yankwich, being duly sworn, hereby declare and say:

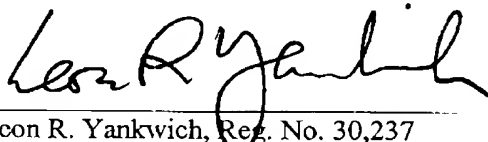
1. I am the owner and sole proprietor of the law firm of Yankwich & Associates;
2. I have been informed and believe that an official action containing a restriction requirement was mailed from the USPTO in the above-identified application on December 5, 2001 but that no response to such office action has been received by the USPTO;
3. I make this declaration after a telephone discussion with Examiner Wehbe, who requested the filing of a statement of the fact that the office action of December 5, 2001 was never received at Yankwich & Associates;
4. The mail docketing procedure that has been followed since the inception of Yankwich & Associates is that all mail addressed to the firm is opened by my Manager, Kimberly B. Chelo, who sorts all the mail and processes and docketed all official correspondence received from the USPTO;
5. An affidavit of Kimberly B. Chelo, detailing the procedures she follows in handling all Yankwich & Associates mail accompanies this affidavit.

U.S. Ser. No. 09/673,292

6. After initial review and docketing by Mrs. Chelo, all official correspondence addressed to the firm is forwarded to me;
7. I review all official correspondence, check docketing notations that have been made on the correspondence by Mrs. Chelo, and forward the correspondence to an associate attorney for reporting and preparation of a responsive paper;
8. Official correspondence requiring a response that is received by the firm is docketed in a calendaring docketing database, from which I receive weekly reports (prepared by Mrs. Chelo); receipt of the correspondence is also entered in the history of the case in a master database containing information on every patent application handled by Yankwich & Associates;
9. I have reviewed docketing reports from the period surrounding December 5, 2001 and have reviewed the record pertaining to the above-identified application in the master database, and no entries pertaining to the office action of December 5, 2001 appear there;
10. I have additionally reviewed the application file maintained in our office, which would receive any official correspondence received for the above-identified application by Yankwich & Associates, and no trace of the office action of December 5, 2001 appears there;
11. In the firm's application file, the last correspondence is a return receipt post card stamped December 26, 2000 received back from the USPTO, signifying receipt of an information disclosure statement filed in the above-identified application;
12. From the foregoing, I conclude that I have not seen the office action of December 5, 2001, which under routine procedure would have come to my direct attention, and furthermore I conclude that the office action was not received by Yankwich & Associates in the mail, due to the fact that the office action does not appear in our application file for this case and no entries in the docketing database or in the master database relating to such office action have been made.

U.S. Ser. No. 09/673,292

13. I further declare that all of the foregoing statements made on personal knowledge are true and all statements made on information and belief are believed to be true, and furthermore I acknowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, U.S. Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.



Leon R. Yankwich, Reg. No. 30,237
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SS:

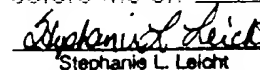
On this 27th day of June, 2002, LEON R. YANKWICH, personally appeared before me, a Notary Public for the Commonwealth of Massachusetts, and, being duly sworn, affirmed that the foregoing affidavit was being made for the uses and purposes therein set forth.

(SEAL)


Notary Public

As subscribed and sworn to

before me on 27th June 2002

 ^{Date} Notary Public
Stephanie L. Leicht

My Commission Expires

4 / 28 / 2006